IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY SECOND DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE ELIPE DHARMA RAO

WRIT PETITION NO : 16075 of 2005

Between:

Kanamarlapudi Bala Gurunadham, S/o. Late Satyanarayana,
Pamur Village & Mandal, Prakasam District.

..... PETITIONER

AND

1 The Mandal Revenue Officer, Varikuntapadu mandal,
Nellore District.
2 The Revenue Divisional Officer, Kavali, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ, order or direction more in the nature of mandamus declaring the action of the 1st respondent vide his proceedings in R.C.B.No.124/2005 dt.15-03-2005 is illegal, arbitrary, and unconstitutional and is violative of the principles of natural justice being violative of the Articles 14,19 and 21 of Constitution of India, consequently direct the 1st respondent not to proceed with his orders.

Counsel for the Petitioner: MR.M.SREE RAMA MURTHY

Counsel for the Respondents: GP FOR REVENUE

The Court made the following :

ORDER:

This writ petition is filed seeking to declare the proceedings in R.C.B. No.124 of 2005, dated 15.03.2005, of the respondent as illegal, arbitrary, unconstitutional and violative of the principles of natural justice and consequently direct the 1st respondent not to proceed with his orders.

The case of the petitioner is that as his father was a landless poor, the then Tahasildar of Udayagiri Taluq, Nellore District assigned an extent of Acs.2-95 cents of land situated in Survey No.12/2 (dry land) of Vempadu Village vide proceedings FDS No.6461/71, dated 07.02.1968, and after the death of his father he has been in possession and enjoyment of the same by cultivating it personally.

Further the case of the petitioner is that some people who have inimical terms with him made some false representations to the 1st respondent -Mandal Revenue Officer that he is not cultivating the assigned land, therefore resume it and assign the same to some others. Basing on the same and at the behest of political influence,

the 1st respondent issued an order in RCB No.124 of 2005, dated 15.03.2005, resuming the assigned land on the flimsy ground that he is not cultivating the same after the death of his father. It is stated that from the date of assignment of the land, his father was cultivating the same till his death and thereafter as the land is inheritable, he inherited the same and has been in possession and enjoyment of the same by cultivating it. It is also stated that the 1st respondent has no right or jurisdiction to resume the assigned land or cancel the patta after lapse of 38 years.

Heard the learned Counsel for the petitioner and the learned Government Pleader for Revenue and disposed of the writ petition at the admission stage.

From a perusal of the impugned order, dated

15-03-2005, it appears that the 1st respondent issued notice dated 19-02-2005 to the petitioner before resuming the land to which petitioner submitted his explanation, dated

11-03-2005, and dissatisfied with the explanation offered by the petitioner, the 1st respondent resumed the assigned land from the petitioner.

In that view of the matter, the petitioner has an effective alternative remedy by way of filing an appeal before the 2nd respondent, who is a competent authority to consider the matter. Therefore, without going in to the merits or otherwise, the petitioner is directed to file an appeal before the 2nd respondent within two weeks from the date of receipt of a copy of this order and on such appeal, the 2nd respondent is directed to dispose of the same uninfluenced by the observations, if any, made in this order, by affording a reasonable opportunity of being heard to the effected parties, expeditiously, in any event, within eight weeks thereafter, in accordance with law. Till such disposal, the 1st respondent is directed not to dispossess the petitioner from the land in question.

With the observations as above, the writ petition is disposed of. In the circumstances there shall be no order as to costs.

22.07.2005

MRKR

To

1 The Mandal Revenue Officer, Varikuntapadu mandal,
Nellore District.
2 The Revenue Divisional Officer, Kavali, Nellore District.

3 Two C.Cs to the Government Pleader for Revenue, High Court Buildings, Hyderabad.

4. Two C.D.copies.